

Driving the Butte pro bono program

Started by local attorneys, this revolutionary activity is steered by district judges

By **Ryan Hazen**, coordinator
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There are many things that make Butte the most unique city in Montana. It was the site of one of the richest copper finds in history, boasts a wealth of authentic turn-of-the-century architecture, and is home to one of the largest statues of the Virgin Mary in the world. It also happens to have a pool of attorneys that reported more pro bono work in 2006 than any other city in the state. It is, however, no coincidence that these attorneys provide so much pro bono service. It is actually very easy to find pro bono work in Butte, because, more often than not, qualified clients in Butte literally find you.

This phenomenon is the result of one of the most progressive pro bono programs in Montana.

Fifteen years ago this program was little more than a loosely organized volunteer group comprised of a few dedicated members of the local bar association. Today, it is a fully developed pro bono program administered by the courts of the 2nd Judicial District, complete with a new pro se section and biennial CLEs to keep local attorneys up to speed on the areas of law that need the most attention.

So where exactly did this program begin, and how did it grow into the program it has become today?

For some time, the program thrived as an all-volunteer organization, staffed and administered by the attorneys themselves. These attorneys took referrals from Montana Legal Services Association and volunteered their time to provide those clients with free legal representation. It was a diverse group of lawyers, ranging from private family-law attorneys to corporate attorneys employed by the Montana Power Company. Though many of them did not practice family law regularly, they could rely on one another to provide advice and guidance in various areas of family law, thereby increasing the number of attorneys available to help with these cases.

SOMETIME IN THE MID-1990s, this loose pro bono committee realized that the need for free legal representation was simply too great to handle alone. They did, after all, have families to support and fee-generating cases to attend to. They decided to approach the judges in Silver Bow County with a



2nd Judicial
District
Pro Bono
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Coordinator
Marijo
MacDonald

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The committee approached then-sitting District Judges James Purcell and John Whelan to recommend that the court administer a pro bono program in Butte. It would be very simple: MLSA would refer qualified cases to the court, which would then assign the cases to attorneys in the area on a rotating basis. If it worked properly, this system would require a minimal amount of pro bono activity from each lawyer while meeting the legal needs of everyone in Butte. Most importantly, it would be done without overburdening any of the attorneys practicing in the 2nd Judicial District.

After careful consideration, the judges agreed to support the program. They sent letters to the entire membership of the local bar, informing the attorneys that they could expect to be assigned a pro bono case in the coming year. The day-to-day administration of the program was assigned to Marijo MacDonald, a law librarian already working in the courthouse. She was able to take the program in stride, and has been helping it grow ever since.

When asked about the pro bono program she administers, Ms. MacDonald insists that, "it is not mandatory; it's alphabetical."

When she receives a referral from MLSA, Ms. MacDonald

consults her attorney list, a database containing the names, phone numbers, and addresses of each attorney in Silver Bow County. She then selects the next lawyer on the list and sends a letter notifying him that he has been assigned a pro bono case and is expected to accept it.

There are, of course, reasonable exceptions made for attorneys who are preparing for trial, going out of town, or other-



Silver Bow
County
District
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Kurt
Krueger

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wise unable to accept a case at that time. These exceptions, however, are short-lived – new cases will be assigned to those same attorneys in the following months.

IN ORDER FOR THIS SORT of program to function properly, the court must see to it that all attorneys in its district have access to the type of continuing legal education necessary to represent these “alphabetical” pro bono assignments. The local bar association, in conjunction with the attorney-staffed pro bono committee, provides a low-cost family-law CLE about every two years. This CLE is very simple, designed specifically to prepare Butte attorneys to represent various types of family law clients in court. It is composed of a broad cross-section of attorneys from Silver Bow County that understand the pro bono program and the precise nature of its most commonly assigned cases. The CLE is highly Butte-specific, and well attended among lawyers practicing in the 2nd Judicial District.

It should not be said, however, that the courts in Butte expect all of their attorneys to be family-law experts. They require only a basic competency in those areas of law addressed by the program, and provide the training necessary for every attorney in the city to develop that competency.

Referring to the manner in which they distribute these cases, now-sitting Judge Kurt Krueger assures us that, “If it's a real complex matter, it goes to a lawyer that has had more experience.” No one is thrust into a case that is clearly out of his depth.

Lack of experience in family law, however, is not an excuse for lack of participation in the program. On top of the low-cost CLEs, MLSA also provides these pro bono attorneys with free malpractice insurance when working as part of the program. Thanks to the local CLEs and MLSA's malpractice umbrella, everyone in Butte is more than able to participate in the program.

THE SUCCESS OF THIS program is the result of many interdependent factors. The first is a local bar membership that is willing and able to represent their neighbors who can't afford regular attorney fees. Like almost every effective pro bono program, the Silver Bow Pro Bono Program was started by a small group from the local bar that voluntarily approached the 2nd Judicial District bench with the idea.

Judicial support is absolutely crucial to the health of this, or any, pro bono program. When the local judiciary expects to see its attorneys fulfill the pro bono publico obligations outlined in rule 6.1 of the Supreme Court's Rules of Professional Conduct, it tends to get results. According to Judge Krueger, “If you are going to appear in the courts of the 2nd Judicial District, you have to participate in our pro bono program.” It really is that simple.

Talented and creative coordination also is necessary for a program like this to function. No matter whom you speak to in the 2nd Judicial District, they always make sure to give Marijo MacDonald extra credit for her work on the program. As newly-elected Judge Bradley G. Newman explains, “Left to their own devices, attorneys have an awful lot of thoughts and cases going on, and it's hard to juggle all those balls ... Once you get somebody to coordinate that effort, attorneys are more than willing to do the work.”

While the judges can offer a great deal of support for the program, they cannot administer it themselves. The real engine driving this program is definitely Marijo MacDonald.

WITHOUT EVERY ONE of the elements listed above, the Silver Bow County Pro Bono Program would not attend to the community's needs as thoroughly as it does today. The attorneys need the judiciary to control coordination and distribution of these pro bono cases, keeping the burden evenly spread across the legal community. The judiciary needs the program administrator to coordinate and drive its success. The administrator and judiciary need attorneys to provide CLEs and actual pro bono representation.

It is an inspiring example of cooperation and teamwork that transcends individual interest in order to enrich the lives of an entire district. This program truly is greater than the sum of its parts. ○